

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 94-368-W/S - ORDER NO. 94-1311 ✓
DECEMBER 30, 1994

IN RE: Application of Hilton Head Plantation) ORDER
Utilities, Inc. for Approval to Transfer) APPROVING
Its Water and Wastewater Facilities and) TRANSFER OF
Territory to Hilton Head No. 1 Public) FACILITIES
Service District.) AND TERRITORY

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Hilton Head Plantation Utilities, Inc. (HHPU or the Company) for approval of the transfer of its water and wastewater facilities and service territory to Hilton Head No. 1 Public Service District (PSD No.1). HHPU's Application was filed pursuant to S.C. Code Ann. §58-5-210 (1976), 26 S.C. Code Ann. Regs. 103-704 and 26 S.C. Code Ann. Regs. 103-504.

By letter dated June 30, 1994, the Commission Executive Director instructed HHPU to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the area affected by the Company's Application. HHPU was also instructed to directly notify each customer by sending a copy of the Notice of Filing by U.S. Mail. The Notice of Filing indicated the nature of the Company's Application and advised all interested parties of the manner and time in which to file appropriate pleadings for participation in the proceedings. HHPU submitted affidavits indicating that it had complied with these instructions. Petitions

to Intervene were received from the Hilton Head Plantation Property Owners Association (the POA), the Hilton Head No. 1 Public Service District (PSD No.1), and the Town of Hilton Head Island (the Town). The Commission also received numerous Letters of Protest, some opposed to the transfer and some supporting the transfer.

On October 5, 1994, the Commission opened a public hearing in the Commission's Hearing Room at 111 Doctors Circle, Columbia, South Carolina. On November 7, 1994, the Commission continued the public hearing at H.L. McCracken Middle School at 55 Wilbourne Road, Hilton Head Island, South Carolina. On December 12, 1994, the Commission continued the hearing at the Commission's Hearing Room at 111 Doctors Circle in Columbia. Throughout the proceedings, HHPU was represented by John M.S. Hoefer, Esquire; the POA was represented by Robert T. Bockman, Esquire; PSD No.1 was represented by Francis P. Mood, Esquire and William A. Ruth, Esquire; the Town was represented by Curtis Coltrane, Esquire; and the Commission Staff was represented by Florence P. Belser, Staff Counsel.

During the proceedings James H. Nicksa, Joe Y. Pitts, Jr., Travis J. Durham, and C. Thomas DeWitt testified on behalf of HHPU and PSD No.1, and Newell Bolton testified for the POA. By agreement of the parties the testimony and prefiled exhibits of Sandi T. Santaniello, Municipal Clerk for the Town of Hilton Head Island, were admitted into the record on behalf of the Town. Due to a family emergency, Bill Ferguson, a witness for the Town, was unable to attend the continuation of the hearing on December 12, but subject to a Motion to Strike Mr. Ferguson's testimony by PSD

No.1, the parties agreed for Mr. Ferguson's testimony to be placed in the record. The hearing on Hilton Head Island was attended by many residents of the impacted area. Several of the residents offered testimony before the Commission. The majority of those residents who testified expressed concern and opposition over the proposed transfer.

James H. Nicksa, Chief Financial Officer and President of HHPU, testified regarding the financial reasons why the transfer of HHPU to PSD No.1 is in the public interest. According to Mr. Nicksa, the financial reasons which justify the transfer of the HHPU system to PSD No.1 relate to future expenses for water and wastewater treatment facilities that HHPU will be required to incur if HHPU continues to own and operate the system. Mr. Nicksa testified regarding the need of HHPU to explore supplemental water sources for its customers and of the need to increase the capacity of its wastewater treatment facilities. Mr. Nicksa explained that both the supplemental water source and the plant additions and upgrades to the wastewater system will generate costs which will have to be passed on to the customers of HHPU. Mr. Nicksa testified that HHPU believes that transferring the HHPU system to PSD No.1 will result in a more economical and efficient means of addressing the water and wastewater needs and problems of the customers.

Joe Y. Pitts, Jr., General Manager of PSD No.1, testified in support of the Application. Mr. Pitts testified that PSD No.1 was created in 1969 by Act No. 596 of the General Assembly, which was later amended in 1971 and 1972. PSD No. 1 provides water and

wastewater services on Hilton Head pursuant to its legislative authority. Mr. Pitts testified that the consolidation of HHPU with PSD No.1 would result in several benefits. According to Mr. Pitts, the transfer would reduce the immediate capital expenditures with respect to the wastewater services. Also, the facility of the PSD No.1 will allow expansion of the treatment capacity at a lower per unit cost than any alternative for treatment, and the consolidation will result in reductions in operational and maintenance costs as well as monitoring and administrative costs. Regarding the water services, Mr. Pitts testified that the consolidation of HHPU and PSD No.1 will result in reduced initial capital costs, ease of obtaining public financing necessary for needed improvements, and reduced operational and administrative savings. Finally, Mr. Pitts testified that the consolidation would benefit the customers through certain non-operational savings such as no obligation to pay property or income taxes, no obligation to make a profit or provide a return to investors, and the ability to incur less expensive debt service.

Thomas DeWitt, a certified public accountant who assisted the PSD No.1 in calculating rates, also testified about the economic advantages expected to ensue from the consolidation of HHPU and PSD No.1. According to Mr. DeWitt, certain yearly expenses that HHPU is currently paying would be eliminated. These expenses would include property taxes, income taxes and certain other fees which amount to approximately \$350,000 per year as well as savings in labor, processing charges, accounting and administrative fees resulting in a savings of approximately \$200,000 per year.

By agreement of the parties, Sandi T. Santaniello, Municipal Clerk for the Town of Hilton Head Island, did not appear at the hearing but her prefiled testimony and exhibits were admitted into the record. PSD No.1 objected on grounds of hearsay to the admission of the "Water Commission Report to Town Council of Hilton Head Island." The Commission overrules the objection of the PSD No.1 as portions of the report have been testified to by other witnesses during the course of the hearing.

The night hearing on Hilton Head was attended by numerous residents of Hilton Head Plantation. Most of those testifying expressed opposition to the proposed transfer of HHPU to the PSD No.1. Many of the residents expressed concerns over the use of the Savannah River as the supplemental water supply.

At the continuation of the hearing on December 12, the Commission directed HHPU to provide information regarding supplemental water sources other than the Beaufort Jasper Water Authority along with supporting cost documentation. Mr. Pitts testified that the PSD No.1 reworked its analysis of the source of the supplemental water source based upon refined costs and assumptions. In order to ease anxieties about the supplemental water source, Mr. Pitts testified that the PSD No.1 had decided to defer a final decision of its preferred supplemental source of water, as well as deferred entering any contractual obligation, until after closing of the transfer and the expansion of the PSD No.1 Board. Mr. Pitts further testified that it is probable that the new members of the PSD No.1 Board will be from Hilton Head Plantation thereby giving the current customers of HHPU a voice in

the decisions of PSD No.1.

The Town presented the prefiled testimony of Bill Ferguson, Councilman representing Ward 1 on the Hilton Head Town Council. Due to a death in his immediate family, Mr. Ferguson was unable to attend the hearing. Prior to the continuation of the hearing, PSD No.1 filed a Motion to Strike Mr. Ferguson's testimony as being beyond the scope of the proceeding as the Commission had directed HHPU to address the "sources of supplemental water supply other than the purchase of bulk water from the Beaufort Jasper Water Authority" including "supporting cost documentation." (Commission Order No. 94-1167 dated November 10, 1994). Further, PSD No.1 objected to the testimony as hearsay and supposition. The Commission has considered the testimony of Mr. Ferguson and the Motion to Strike by PSD No.1 and concludes that the Motion to Strike should be denied. The Commission recognizes that Mr. Ferguson's testimony is substantially the same as many of the comments previously testified to by other witnesses and believes the testimony to be duplicative of comments already in the record.

The Commission is charged with weighing the competing interests of the respective parties in reaching its decision. While the Commission is concerned with the provision of adequate service at a fair and reasonable price to the consumer, the Commission must also balance the interests of the utility which include the opportunity to make a profit or earn a return on its investment. The Commission must also look to the future in its deliberations and try to plan for the future in its decisions.

From the evidence presented, it is almost a certainty that

water and wastewater rates to the current HHPU customers will be subject to upward pressures if the transfer of HHPU to PSD No.1 is not approved. The capital expenditures for HHPU to increase the capacity of the wastewater treatment system and the costs associated with the supplemental water source could likely result in requested increases to the rates paid by the customers of HHPU.

The Commission is well aware of the problems facing the water utilities on Hilton Head Island. Clearly, a supplemental water source will be required in the future to provide for the needs of the residents of Hilton Head. As evidenced by the testimony presented, a clear choice does not exist for the supplemental water source. However, one aspect is clear. The supplemental water source will require capital expenditure. Economies of scale will play an important role in whatever additional water source is ultimately used. Consolidation of fragmented water utilities on Hilton Head Island should aid in the development of efficient and reasonably priced water services for the future. While the Commission realizes that the approval of the transfer of the facilities of HHPU to the PSD No.1 does not consolidate all of the water utilities on the Island, it is a start which the Commission believes will benefit both the customers and the utility.

Clearly, the PSD No.1 has many years of experience in the provision of water and wastewater services to the residents of Hilton Head. The experience gained over the years will allow PSD No.1 to provide the proper and appropriate provision of water service to the residents of Hilton Head Plantation. The Commission believes, and so finds, that PSD No.1 is fit, willing, and able to

provide the needed and necessary water and wastewater services to the residents of Hilton Head Plantation. Therefore, the Commission finds that the transfer of the HHPU water and wastewater facilities to PSD No. 1 should be approved.

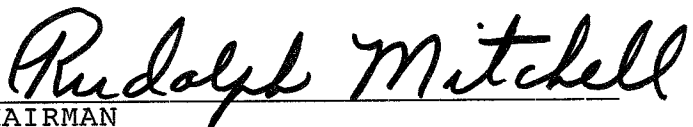
IT IS THEREFORE ORDERED THAT:

1. The Application of HHPU to transfer its water and wastewater facilities and service area to PSD No.1 is hereby approved.


2. PSD No.1's objection to the water study contained in Sandi Santaniello's Exhibits is overruled, and the Motion to Strike the testimony of Bill Ferguson is denied.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


CHAIRMAN

ATTEST:


Deputy Executive Director
(SEAL)